

REMARKS

The application has not been amended.

Claims 1-4 and 8-15 remain pending in the application. Reconsideration and allowance of all of the claims is respectfully requested in view of the following remarks.

In regard to Rejection of Claims 1-4 and 10-13 Under 35 USC § 103(a)

The Examiner has rejected claims 1-4 and 10-13 under 35 U.S.C. § 103(a), as being unpatentable over Laimböck, U.S. Patent No. 6,467,562, in view of Pestotnik, U.S. Patent No. 6,182,784. The Applicants respectfully disagree.

Referring to the page 4 of the rejection, in the Examiner's response to arguments,

[w]ithin the independent claims, i.e. claims 1 and 10, no requirement is present for TWO vehicles to be disclosed. These claims recite "**A vehicle** selected from a family of vehicles..." (emphasis mine)

Therefore, if one member of said family is disclosed, the requirement is met. Additionally, Applicant states specifically within the remarks filed 6 June 2006, "What is claimed is a single vehicle..." (page 9, final paragraph).

That being the case, the motorcycle of Laimböck fits within the family as recited in claims 1 and 10 and satisfies the limitations of said claims.

The Applicants believe that the Examiner has misunderstood the claims, as well as the Applicants' remarks in the communication filed on June 6, 2006. While the Applicants did state that what is claimed is a single vehicle, the single vehicle must still satisfy all of the features recited in the claim. The Applicants' exact words were:

Claims 1 and 10 now recite a family of vehicles comprising two vehicles of different types from among the types recited respectively therein. What is claimed is a single vehicle selected from the family so defined.

As such, in order for the single vehicle of Laimböck to satisfy the limitations of claims 1 and 10, it must be a member of a family as recited therein.

Claim 1 recites

a family of vehicles [...] comprising:
a first land vehicle of a first vehicle type [...], the first land vehicle having a first V-type engine having a configuration, [...]
a second land vehicle of a second vehicle type [...], the second land vehicle having a second V-type engine of the same configuration as the first V-type engine, [...]
the second vehicle type being any vehicle type from the group of vehicle types other the first vehicle type [...].

For its part, claim 10 recites

a family of vehicles [...] comprising:
a land vehicle [...], the land vehicle comprising a first V-type engine having a configuration, [...] and
a water vehicle [...], the engine of the water vehicle being a second V-type engine of the same configuration as the first V-type engine.

As the Applicants explained in the communication filed on June 6, 2006, the vehicle of Laimböck cannot be a member of a family as claimed unless there exists a family satisfying the claims that includes the vehicle of Laimböck.

In order for the vehicle of Laimböck to be a member of a family as recited in claim 1 or claim 10, a second vehicle of a different type must exist, having an engine of the same configuration as the engine in the vehicle of Laimböck. The prior art fails to teach a second vehicle of a second type having an engine of this configuration. As such, the prior art does not teach a family as claimed of which the vehicle of Laimböck is a member. By extension, the vehicle of Laimböck cannot be selected from such a family. Therefore, Laimböck does not teach a vehicle selected from a family of vehicles as claimed.

As the Applicants explained in the communication filed on June 6, 2006, Pestotnik fails to remedy this deficiency in Laimböck. Pestotnik teaches only an ATV, and does not teach an ATV having an engine with the same configuration as the engine in the motorcycle of Laimböck. Therefore, even if Laimböck and Pestotnik could be combined, which is not admitted, their combination would not teach a family of vehicles comprising first and second vehicles of different types having engines with the same configuration, from which the single vehicle of Laimböck, or any other single vehicle, could be selected.

Therefore, at least one feature of claims 1 and 10 as amended is not taught by Laimböck or Pestotnik, alone or in combination, which combination is not admitted. As such, the Examiner is requested to withdraw his rejection of claim 1 and claims 2-4 depending therefrom, as well as claim 10 and claims 11-13 depending therefrom.

In regard to Rejection of Claims 8, 9, 14 and 15 Under 35 USC § 103(a)

The Examiner has rejected claims 8, 9, 14 and 15 under 35 U.S.C. § 103(a), as being unpatentable over Laimböck in view of Pestotnik and further in view of Ducati Museum web page. The Applicants respectfully disagree.

As discussed above with respect to claims 1-7 and 10-13, the combination of Laimböck and Pestotnik, which combination is not admitted, fails to teach a vehicle selected from the family recited in either of claims 1 or 10.

This deficiency in Laimböck and Pestotnik is not remedied by the Ducati Museum web page, without admitting that the Ducati Museum web page can be combined with either or both of Laimböck and Pestotnik, and reserving the right to argue thereagainst in the future.

The Examiner relies on the Ducati Museum web page to teach particular aspects of engine configurations that he recognizes are not taught in either Laimböck or Pestotnik, namely a 750 cc, 90-degree V-type engine. As such, neither Laimböck nor Pestotnik teach a vehicle having an engine with the same configuration as the engine described on the Ducati Museum web page. Therefore, the combination of Laimböck, Pestotnik and the Ducati Museum web page, which combination is not admitted, does not teach a family of vehicles comprising first and second vehicles of different types having engines with the same configuration, from which a vehicle could be selected.

Therefore, at least one feature of claims 1 and 10 as amended is not taught by Laimböck, Pestotnik or the Ducati Museum web page, alone or in combination, which combination is not admitted. As such, the Examiner is requested to withdraw his rejection of claims 8 and 9 depending from claim 1, as well as claims 14 and 15 depending from claim 10.

In view of the above remarks, the Applicants respectfully submit that all of the currently pending claims are allowable and that the entire application is in condition for allowance.

Should the Examiner believe that anything further is desirable to place the application in a better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

At the time of filing of the present response, no fees were believed to be necessary. In case any fee should be necessary, the Office is hereby authorized to debit Deposit Account number 502977.

Respectfully submitted,

/Jonathan David Cutler/

Jonathan D. Cutler, Reg. No. 40,576
OSLER, HOSKIN & HARCOURT LLP
Attorneys for the Applicant

OSLER, HOSKIN & HARCOURT LLP
1000 de la Gauchetière St. West
Suite 2100
Montréal, Québec H3B 4W5
Canada

Tel. (514) 904-8100
Fax. (514) 904-8101